

United States District Court
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA	§	
	§	
vs.	§	Case No. 4:06cr228
	§	(Judge Schell)
DELEON DESHAWN KING (1)	§	

REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on September 16, 2009, to determine whether Defendant violated his supervised release. Defendant was represented by Denise Benson. The Government was represented by Ernest Gonzalez.

On April 13, 2007, Defendant was sentenced to twenty-four (24) months and fifteen (15) days' custody followed by five (5) years of supervised release for the offense of conspiracy to manufacture or possess with intent to manufacture or distribute methamphetamine. On June 30, 2008, Defendant's supervised release began.

On March 6, 2009, the U.S. Pretrial Services Officer executed a Petition for Warrant for Offender Under Supervision. The petition asserted that Defendant violated the following mandatory conditions: (1) that he shall not unlawfully possess a controlled substance; and (2) that defendant shall refrain from any unlawful use of a controlled substance and submit to one drug test within fifteen days of release from imprisonment or placement on probation and at least two periodic drug tests thereafter, as directed by the probation officer. The petition also alleged the violations of the following standard conditions: (1) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance, or any paraphernalia

related to any controlled substances, except as prescribed by a physician; (2) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance, or any paraphernalia related to any controlled substances, except as prescribed by a physician; (3) the defendant shall report to the probation officer as directed by the Court or probation officer and shall submit a truthful and complete written report within the first five days of each month; (4) the defendant shall notify the probation officer ten days prior to any change in residence or employment; (5) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer. The petition also alleges a violation of the following special condition: the defendant shall participate in a program of testing and treatment for alcohol and drug abuse, under the guidance and direction of the probation office until such time as the defendant is released from the program by the probation officer.

The petition alleges that Defendant committed the following acts: (1) On December 2, 2008, defendant was arrested by the Denison Police Department for possession of marijuana; (2) defendant submitted urine specimens on July 14, 2008, August 28, 2008, and November 14, 2008, which tested positive for marijuana; (3) defendant failed to submit a written monthly report for the months of November 2008, December 2008 and January 2009; (4) defendant was terminated from his place of employment in December 2008 and failed to notify the probation office; (5) defendant changed his residence in December 2008 and failed to notify the probation office, and his whereabouts were unknown; (6) defendant failed to notify the probation officer within seventy-two hours of his arrest on December 2, 2008; and (7) defendant failed to report for substance abuse treatment on October 14, 2008, and December 20, 2008, and failed to report for drug testing at the treatment center on October 9, 21, 24, 2008, November 4, 2008, December 30, 2008, January 22, 26, 2009, and February 3, 2009.

Prior to the Government putting on its case, Defendant entered a plea of true to all of the violations. The Court recommends that Defendant's supervised release be revoked.

RECOMMENDATION

The Court recommends that the District Judge revoke Defendant's supervised release. The Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of nine (9) months with no supervised release to follow. It is also recommended that Defendant be housed in the Bureau of Prisons, Seagoville Unit.

After the Court announced the recommended sentence, Defendant executed the consent to revocation of supervised release and waiver of right to be present and speak at sentencing. Defendant and the Government also waived their right to file objections.

SIGNED this 17th day of September, 2009.


AMOS L. MAZZANT
UNITED STATES MAGISTRATE JUDGE